

**PT 98-24**

**Tax Type: PROPERTY TAX**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>PIONEER CIVIC SERVICES</b>	)		
<b>Applicant</b>	)		
	)	<b>Docket #</b>	<b>96-72-172</b>
<b>v.</b>	)		
	)	<b>Parcel Index #</b>	<b>18-08-254-011</b>
<b>THE DEPARTMENT OF REVENUE</b>	)	<b>Barbara S. Rowe</b>	
<b>OF THE STATE OF ILLINOIS</b>	)	<b>Administrative Law Judge</b>	

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**RECOMMENDATION FOR DISPOSITION**

Appearances: David M. Couri, attorney for Pioneer Civic Services.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue, 101 W. Jefferson, Springfield, Illinois on August 22, 1997, to determine whether or not Peoria County Parcel Index No. 18-08-254-011 qualified for additional exemption for the 1996 assessment year.

Cindy Jenkins of Children's Home Association of Illinois, Inc., LuAnn Rigg of Crittenton Care and Counseling, Helen Crum of Pioneer Property, and Steven Clark of Pioneer Civic Services were present and testified on behalf of Pioneer Civic Services (hereinafter referred to as the "Applicant").

The issues in this matter include whether the applicant was the owner of the parcel during more than eight percent of the 1996 assessment year and whether more than fifty-three percent of the parcel was used by the applicant for exempt purposes for more than eight percent of the 1996

assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned this parcel for eight percent of the 1996 assessment year. It is also determined that the applicant used fifty-three percent of the parcel for exempt purposes for eight percent of the 1996 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that a portion of Peoria County Parcel Index Number 18-08-254-011 did not qualify for a property tax exemption for a part of the 1996 assessment year was established by the admission into evidence of Department's Exhibit Nos. 1 through 6. (Tr. pp. 16, 49)

2. On January 8, 1997, the Department received a property tax exemption application from the Peoria County Board of Review for Permanent Parcel Index Number 18-08-254-011. The applicant had submitted the request, and the board recommended that the Department grant the exemption for the 1996 assessment year. The portion of the application containing the board of review's recommendation showed the current assessment for 1996 was \$80,000.00. (Dept. Grp. Ex. No. 2)

3. On May 8, 1997, the Department denied in part the requested exemption application, finding that forty-seven percent of the building and site were not in exempt use for ninety-two percent of the 1996 assessment year. (Dept. Ex. No. 3)

4. Steve Clark, as a representative of the applicant, timely protested<sup>1</sup> the denial of the portion found not to be exempt and requested a hearing in the matter. (Dept. Ex. No. 4)

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<sup>1</sup>. A portion of the text of the protest letter is as follows:

. . . At this time I am requesting a formal hearing to appeal the Department's decision of placing only 53% of the building under exemption. The entire building is owned and will function as non-profit uses and benefit only non-profit organizations. Effective May of 1997 the greater portion of the remaining building will be used by the current organizations for expansion of their programs.

It is the position of Pioneer Civic Services that the building was acquired for and remains in the use of non-profit 501-C-3 organizations including that space which is currently and was previously vacant space. I will provide the Department copies of the new leases for

5. The hearing, held at the Department's offices in Springfield, Illinois, on August 22, 1997, was pursuant to that request. (Dept. Ex. No. 5)

6. I take administrative notice that the Department exempted fifty-three percent of the building and site on the parcel herein issue for eight percent of the 1996 assessment year. (Dept. Ex. No. 3)

7. The address of the subject property is 1201 W. First Street, Peoria, Illinois. It was formerly known as the McKinley School Building. (Applicant's Ex. No. 4; Tr. p. 18)

8. The Board of Education of the City of Peoria entered into an agreement for warranty deed for the subject property with Housing Plus Partnership on September 21, 1995. The sales price, according to the contract, was \$250,000.00. The buyer took the premises "as is" as of the date of the execution of the purchase contract. The contract was signed by Steve E. Clark, partner for the buyer, Housing Plus Partnership<sup>2</sup>. (Applicant's Ex. No. 1; Tr. pp. 19-20)

9. A real estate sales contract for the subject property was executed between Housing Plus Partnership, as seller, and the applicant, as buyer, on November 16, 1995. The purchase price to be paid by the applicant, according to the contract, was \$473,000.00. The buyer paid \$500.00 earnest money. The possession and closing date shown on the contract was December 4, 1995 "or at such time as may be mutually agreed in writing." Steven Clark, as the Executive Director of Pioneer Civic Services, Inc., signed the contract for the applicant. The

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the expanded space during the requested hearing. The subject property has never been on the tax roles [sic] and the hearing we had with the local Peoria County Board of Review concluded where the property was to be shown by the Board of Review as having zero value. We were told this value would take the property off the tax role [sic] and not produce a tax bill. This value was placed based on our commitment to file with the Department of Revenue a request for exemption.

We will be requesting at the hearing a 100% exemption from real property tax. . . .

<sup>2</sup>. The terms of the agreement for warranty deed included a down payment of \$50,000 at the time of closing with the balance of \$200,000 due in monthly installments of \$1,000.00 per month due on the first of each month thereafter until October 1, 1996 at which time the monthly payments increased to \$4,000.00 per month until October 1, 1997 at which time the entire balance became due and payable before November 1, 1997. Interest was charged at a rate of 8% per annum, computed monthly. The buyer agreed to pay all real estate taxes due after closing.

signature for Housing Plus Partnership was of the General Managing Partner. (Applicant's Ex. No. 2; Tr. pp. 20-21)

10. The applicant did not have the assets to purchase the subject property and could not leverage the dollars to make the contract for the property. (Tr. pp. 20, 34)

11. Housing Plus Partnership is an Illinois partnership that is not a not-for-profit organization. (Tr. p. 34)

12. Housing Plus Partnership was organized solely to acquire the subject property. The partnership is no longer in existence. (Tr. p. 35)

13. On November 21, 1995, the City of Peoria passed an ordinance for the subject property to allow for a day care facility, a school, and a public safety building. (Applicant's Ex. No. 3; Tr. pp. 21-22)

14. On December 3, 1996, Housing Plus Partnership, an Illinois General Partnership, conveyed the subject parcel to the applicant by a warranty deed. The deed was recorded on December 10, 1996. (Dept. Grp. Ex. No. 2 pp. 20-22)

15. A title insurance policy was issued to the applicant on December 10, 1996, for the subject property. (Dept. Grp. Ex. No. 2 pp. 12-18)

16. In a letter dated December 14, 1996, to the Chairman of the Peoria County Board of Review, the applicant stated that it was understood the board would value the subject property at zero if the applicant applies for an exemption<sup>3</sup>. (Dept. Ex. No. 2 p. 5)

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<sup>3</sup>. The letter stated:

We met on June 24th and discussed the above referenced property. You indicated the Board of review would value the property at (0) and for me to fill out and return to you the application for exemption.

Pioneer Civic Services has just now secured permanent financing for the property. This financing allowed us to buy out the contract for Deed. During the closing I found the information and note to return to your office as soon as possible the application for exemption. I am sorry I messed up and didn't return the form in a timely fashion. I appreciate your working with us on this property and others involved with social service purposes.

17. The applicant was granted an exemption from federal income taxes pursuant to an advance ruling regarding its 501(c)(3) designation as determined by the Internal Revenue Service. The letter was dated April 2, 1996. The advance ruling period is from October 28, 1994 through December 31, 1998. (Dept. Grp. Ex. No. 2 pp. 6-8)

18. Housing Plus Partnership executed a property lease with Crittenton Care and Counseling on January 1, 1996, for thirty-one percent of the subject property. The lease was for the period of February 1, 1996 through January 31, 2001 for \$4,000.00 per month for the term of the lease. The lessor and lessee agreed that the taxes and building insurance on the property are included in the rent. The lease contains a provision that if the premises are not separately metered for utility service, the lessee pays the utility costs on a square footage basis. The lease automatically renews for five additional years unless the lessee gives written notice of termination. (Dept. Grp. Ex. No. 2 pp. 40-49; Tr. pp. 29-32)

19. I take administrative notice of the fact that Crittenton Care and Counseling was granted a property tax exemption pursuant to Docket Number 95-72-211 for a parcel owned by Crittenton Care. (Dept. Grp. Ex. No. 6 p. 18)

20. Crittenton Care and Counseling operates a crisis nursery that provides care for children ages zero to six, an adolescent teen pregnancy program, a respite care program, and a teens-needs-teens program. On the leased portion of the subject property, Crittenton Care and Counseling operates its child care and teens-need-teens programs. Crittenton Care does not charge its clients for services. The program is funded through a grant. (Tr. pp. 44-45)

21. On December 1, 1995, Housing Plus Partnership entered into a property lease with the Children's Home Association of Illinois, Inc., for twenty-two percent of the property at issue. The lease was for a term of three years to commence on January 1, 1996. The rent for the portion of the premises was \$2,400.00 per month, with yearly adjustments. The lessor and lessee agreed that the taxes and building insurance on the property are included in the rent. The lease contains a provision that if the premises are not separately metered for utility service, the lessee pays the utility costs on a square footage basis. (Dept. Grp. Ex. No. 2 pp. 30-39; Tr. pp. 25-26)

22. I take administrative notice of the fact that Children's Home Association of Illinois was granted property tax exemptions pursuant to Docket Numbers 92-72-86, 93-72-150, 94-72-166, 94-72-167, and 95-72-211 for parcels owned by Children's Home Association of Illinois. (Dept. Grp. Ex. No. 6 pp. 1, 15-17, 19; Tr. pp. 48-49)

23. The purposes of Children's Home Association of Illinois, pursuant to its revised constitution, are:

- (a) Giving children a childhood and future by protecting them, teaching them, and healing them and by building strong communities and loving families.
- (b) to provide residential, therapeutic, educational, rehabilitative and supportive services to children and youth whose personality and behavior reveal evidence of emotional disturbance or social distress and to offer all such facilities, programs and services and engage in all such activities as will further these objectives.
- (c) All of the assets and earnings of the Corporation shall be used exclusively for the purposes herein stated, including payment of expenses incidental thereto, and no part thereof shall inure to the benefit of any member or any director of any office of the Corporation, or to any individual, but rather shall inure to the benefit of the Corporation and shall be utilized by the Board of Directors of the Corporation to promote the charitable, benevolent and educational purposes of the Corporation. (Dept. Ex. No. 2 p. 81)

24. The revenue received by the Children's Home Association of Illinois for the fiscal year ending June 30, 1996, came from public support, service fees, investment income, tuition, and grants awarded by federal and state agencies. (Dept. Ex. No. 2 pp. 90-130)

25. The expenses incurred by the Children's Home Association of Illinois for the fiscal year ending June 30, 1996, were for Program services, including residential and educational programs and community programs and supporting services, which includes management and general, as well as development. (Dept. Ex. No. 2 pp. 94)

26. Children's Home Association of Illinois exists to provide services to children and families. In the space that Children's Home leases on the subject property, Children's Home has a crisis intervention program, a homeless youth services program, a unified delinquency

intervention services program for adjudicated delinquents, and community development programs. There are no charges made to the clients of Children's Home for the services. (Tr. p. 39)

27. The by-laws of the applicant state as its purpose that : "[T]his Corporation is organized under the Illinois General Not for Profit Corporation Act and pursuant to the applicable provisions of the Act. (The purpose of the Corporation is to provide adequate, safe and sanitary housing accommodations and provide civic services of all kinds and nature for persons of low and moderate income.)" (Dept. Ex. No. 2 pp. 27-28(a))

28. The Articles of Incorporation for the applicant state that the applicant is incorporated under the General Not For Profit Corporation Act "to provide civic services of all kinds and nature to low and moderate income individuals and their families, and any and all other acts it is authorized by law to do, as deemed necessary or desirable by the corporation."<sup>4</sup> (Dept. Ex. No. 2 pp. 53-59)

29. The income statement for the applicant, for the month ending February 28, 1997<sup>5</sup>, shows income for the month from rentals in the amount of \$8,287.35, and utilities in the amount of \$3,117.06, for total income of \$11,404.41. This translates into a "gross profit" of \$11,404.41. The expenses incurred by the applicant for the same period are for interest in the amount of \$3,623.53, and utilities of \$5,312.24, which makes total expenses of \$8,935.077. This produces a net income of \$2,468.64. (Dept. Ex. No. 2 p. 134)

#### Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

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<sup>4</sup>. The additional purposes delineated in article four of the applicant's purpose clause are requirements necessitated by the Internal Revenue Service for a 501(c)(3) designation by that organization. For purposes of brevity and lack of relevance, they are not included in this recommendation.

<sup>5</sup>. The applicant did not submit a balance sheet or financial statement for 1996.

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property with the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the Constitutional enabling provision, the legislature has enacted Illinois statutes which have provisions for property tax exemptions. In particular, 35 ILCS 200/15-65 exempts certain property from taxation, in part, as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Also, pursuant to statutory authority, the Department is the entity empowered to grant or deny property tax exemptions. The boards of review and appeals are to make a recommendation to the Department regarding requested exemptions.<sup>6</sup> The applicant asserted that the board of

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<sup>6</sup>. The determination of exemptions and exemption procedures sections of the statutes are found at 35 ILCS 200/16-70 and 35 ILCS 200/16-130. They state "the decision of the board shall not be final,



review would show the subject property as having a zero value. That assertion is hearsay and is not supported by the application itself, on which the board listed the current assessment of the property as \$80,000.00.

The Department determined that the applicant qualified for exemption for fifty-three percent of the building and site for eight percent of the 1996 assessment year. The Department also determined, pursuant to Docket number 95-72-211, that Crittenton Care and Counseling is an exempt organization. Pursuant to Docket numbers 92-72-86 *et al.*, the Department found that Children's Home Association of Illinois is an exempt organization.

The issue therefore before me is whether the applicant is entitled to a larger exemption for a greater portion of the 1996 assessment year.

The owner of the property from September 21, 1995, pursuant to the agreement for warranty deed, was Housing Plus Partnership. The Illinois Appellate Court has stated that a purchaser under a contract for deed, rather than the contract vendor, is the owner of the property for purposes of exemption of the parcel for property tax purposes. Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill.App.3d 678 (1994) and Christian Action Ministry v. Department of Local Affairs, 74 Ill.2d 51 (1978). I therefore find that Housing Plus Partnership owned the property as of September 21, 1995.

Housing Plus Partnership was a for-profit partnership that paid \$250,000.00 for the property. On November 16, 1995, Housing Plus Partnership and the applicant executed a real estate contract for the parcel in question wherein the applicant agreed to pay \$473,000.00 for the property. It does not escape me that Housing Plus Partnership made a profit of \$223,000.00 by purchasing the property and then selling it to the applicant. It also does not escape me that Steve Clark signed the agreement for warranty deed as the partner of Housing Plus Partnership, signed

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except as to homestead exemptions. . . . The Department shall [then] determine whether the property is or is not legally liable to taxation."

the real estate sales contract as the Executive Director of the applicant, and also signed the assignment of interest in leases and rents, again as the Executive Director of the applicant.

In the brief submitted by the applicant, numerous cases were cited for the proposition that Housing Plus Partnership was the equitable owner or alter ego of the applicant for the period prior to the warranty deed conveyance to the applicant.

The first case that the brief cites, Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978), involved a charitable organization that entered into a contract for deed for the property. In that case, the Supreme Court held that the Ministry had a substantial interest in the property, including a large down payment, monthly payments, and the contractual responsibility for the real estate taxes, all of which were established in the contract for deed. The obligations, the court felt, were sufficient to justify a determination of tax-exempt status on the basis of equitable ownership in the Ministry. I have held that Housing Plus Partnership had a sufficient ownership interest pursuant to the contract for deed between Housing Plus Partnership and the Board of Education, to state that Housing Plus Partnership was the equitable owner of the property in question from September 21, 1995 until the warranty deed was executed between the applicant and Housing Plus Partnership on December 3, 1996. Prior to that date, a real estate sales contract existed between Housing Plus Partnership and the applicant. Christian Action Ministry does not state, nor do I feel that it would be legally sound to find that a mere real estate sales contract establishes the same equitable interest as a contract for deed, which seems to be applicant's argument.

The applicant also thought that Community Mental Health Council, Inc. v. Department of Revenue, 186 Ill.App.3d 73 (1st Dist. 1989), and the Appellate Court finding in that matter was pertinent to the situation at issue. Community Mental Health Council involved a charitable organization that made no rental payments to Community Mental Health Foundation, the owner of the property and the alter ego of Community Mental Health Council. In Community Mental Health Council, the council was precluded, under the terms of the annual operation grant received from the Department of Mental Health, to use the monies from the grant for the

purchase of real estate or to make mortgage payments. That is not the case before me. The applicant herein was not precluded by any grant restrictions from purchasing the property in question. It just did not have the ability to obtain the necessary financing. Nor is the applicant herein the alter ego of Housing Plus Partnership. The two entities do not share the same basic name, nor is there the closeness between Housing Plus Partnership and the applicant as the court found in the organizations involved in Community Mental Health Council. I therefore find Community Mental Health Council distinguishable from the facts before me.

The applicant next cites Southern Illinois University Foundation v. Booker, 98 Ill.App.3d 1062 (5th Dist. 1981), for the same result as found in Community Mental Health Council. For the aforementioned reasons, I find that Southern Illinois University Foundation is equally distinguishable from the facts before me. I do not find it a "shallow significance" that the names Housing Plus Partnership and Pioneer Civic Services, Inc. are dissimilar, nor do I find it a shallow significance that Housing Plus Partnership made a \$223,000.00 profit by purchasing the property in question and subsequently conveying it to the applicant.

The applicant also cites Chicago Patrolmen's Association v. The Department of Revenue, 171 Ill.2d 263 (1996) in its brief in support of its assertion that the realities of ownership are in the applicant, prior to the execution of the warranty deed, in this case. Chicago Patrolmen's Association concerned a charitable museum and a non-charitable police organization, each of which owned an undivided one-half interest in the property. The court found that fifty percent of the property was exempt and fifty percent was taxable. The case before me does not concern a charitable organization and a non-charitable organization as co-owners of property and I therefore find Chicago Patrolmen's Association also distinguishable.

The last case that the applicant cites in its proposition that equitable title was held in the applicant for the period of January 1, 1996 until December 3, 1996, is Cole Hospital, Inc. v. Champaign County Board of Review, 113 Ill.App.3d 96 (4th Dist. 1983). Cole Hospital, Inc. is also distinguishable from the facts before me. Cole Hospital, Inc. involved a sale and lease back situation that was necessary because the hospital had a troubled financial history. While there is

the suggestion that the applicant in this case also had financial problems, there was no sale and lease back situation here and I therefore also find Cole Hospital, Inc. distinguishable.

I find that applicant's assertion, that this case is similar to Christian Action Ministry v. Department of Local Government Affairs, *supra*, Community Mental Health Council, Inc. v. Department of Revenue, *supra*, Southern Illinois University Foundation v. Booker, *supra*, Chicago Patrolmen's Association v. The Department of Revenue, *supra*, and/or Cole Hospital, Inc. v. Champaign County Board of Review, *supra*, is incorrect.

I therefore find that the applicant owned the property on December 3, 1996 and not before.

Steven Clark executed contracts on behalf of both Housing Plus Partnership and the applicant. The applicant's argument that Housing Plus Partnership held the property in trust for the use of the applicant does not address the fact that Housing Plus Partnership made a nice profit in the sale of the property in question.

The applicant executed a property lease with Crittenton Care and Counseling on May 1, 1997 for a portion of the property in question depicted on the purported attached "Exhibit A". There was no "Exhibit A" attached to the property lease. The lease was for the period of May 1, 1997 through April 30, 2000 for \$570.00 per month for the first 24 months, and \$700.00 per month for the remainder of the term of the lease. The lease automatically renews for three additional years unless the lessee gives written notice of termination to the applicant. I find that the submission of the lease is not relevant to the requested property tax exemption because the lease was not in force during the taxable year in question, nor does it identify the portion of property leased.

The applicant also entered into a lease with the Children's Home Association of Illinois on August 1, 1997. Once again, I find the lease not relevant because it is not for the taxable year in question.

In Jackson Pk. Yacht Club v. Dept. of Gov't Affairs, 93 Ill.App.3d 542 (1st Dist. 1981), the Illinois Appellate Court stated:

Because a cause of action for taxes for one year is not identical to a cause of action for taxes in subsequent years, a decision adjudicating tax status for a particular year is not *res judicata* as to the status of property in later years. [citations omitted] Consequently, even where the ownership and use of the property remain the same, a party may be required to relitigate the issue of its exemption annually. *id.* at 546

Applicant, as the party claiming tax exemption, has the burden of proving that the exemption applies. See Amer. Nat'l Bank and Trust Co., v. Dept of Revenue, 242 Ill.App.3d 716, 722 (2nd Dist. 1993). The Applicant contends that they should be granted additional tax-exempt status as a charitable entity. "In order to qualify for property tax exemption on charitable grounds, the taxpayer must show that the property was owned by a charitable organization and was exclusively used for charitable purposes." Resurrection Lutheran Church v. Dept of Revenue, 212 Ill.App.3d 964, 970 (1st Dist., 5th Div. 1991).

It is also well settled in Illinois that the character and purpose for which a corporation is organized, must be ascertained from its articles of incorporation. People v. Wyannett Light Co., 306 Ill. 377 (1922) and Rotary International v. Paschen, 14 Ill.2d 480 (1958). Applicant's articles of incorporation provide that it is organized to provide civic services to low and moderate income individuals and families and not primarily for charitable purposes.

In Rotary International v. Paschen, 14 Ill.2d 480 (1958) the Illinois Supreme Court stated:

An organization is charitable only when it exists to carry out a purpose recognized in law as charitable, and the law recognizes as charitable only those purposes which, if carried out, will benefit the public in such a way that there is a consequent relief, to some extent, of the burden upon the State to care for and advance the interests of its citizens.

The assertion at the hearing that the applicant does not make a profit on the subject property is not supported by the financial statement submitted for February, 1997. In Oak Park Club v. Lindheimer, 369 Ill. 462 (1938), the Illinois Supreme Court found that the fact that no profit was made by a corporation claiming to be a charitable organization was not of controlling importance in determining whether its property was exempt from taxation.

The applicant also seems to think that because an entity is a not-for-profit organization, it will qualify for an exemption from property tax in the State of Illinois. The Illinois Courts have long held that an exemption from federal income tax and/or Illinois sales tax is not determinative of the question of whether an applicant uses property for charitable purposes and is therefore exempt from real estate taxation. Decatur Sports Foundation v. Department of Revenue, 177 Ill.App.3d 696 (4th Dist. 1988); Clark v. Marian Park, Inc., 80 Ill.App.3d 1010 (2nd. Dist. 1980); People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill.2d 450 (1970).

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court established six non-exclusive guidelines to be used in determining whether or not the use of property by an organization is charitable. Those six guidelines are as follows:

- (1) The benefits derived are for an indefinite number of persons;
- (2) The organization has no capital, capital stock or shareholders, and does not profit from the enterprise;
- (3) Funds are derived mainly from private and public charity, and are held in trust for the objectives and purposes expressed in its charter;
- (4) Charity is dispensed to all who need and apply for it;
- (5) No obstacles are placed in the way of those seeking the benefits; and
- (6) The primary use of the property is for charitable purposes.

I find that the ownership by Housing Plus Partnership was not ownership by a charitable organization. In fact, the testimony was that Housing Plus Partnership was a for-profit partnership.

I also find that the argument by the applicant that an additional thirteen percent of space was leased for storage during 1996 is not supported by anything except testimony. This is contrary to the way that the applicant does business as there are two written leases for the subject property. There was no additional lease for the thirteen percent area, unless it is the lease which was executed in 1997. Nineteen ninety-seven is not the taxable year in question.

I also find that, because the applicant did not own the property prior to December 3, 1996, its argument, based upon Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987), regarding adaptation of the property for exempt use, must also

fail. I find that the applicant is not entitled to any additional exemption for the taxable year in question.

It is therefore recommended that the Director of the Department find that fifty-three percent of Peoria County Parcel Index Number 18-08-254-011 be exempt from taxation for eight percent of the 1996 assessment year, as previously determined by the Department.

Respectfully Submitted,

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Barbara S. Rowe  
Administrative Law Judge  
March 24, 1998